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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34306]

K. Earl Durden, Rail Management Corporation, and Rail Partners, L.P.—Corporate Family
Transaction Exemption

K. Earl Durden (Durden), Rail Management Corporation (RMC),¹ and Rail Partners, L.P. (Rail Partners)² (collectively, applicants), have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) to undertake a corporate reorganization to simplify their corporate structure by: (1) merging Galveston Railway, Inc. (GRI), into RMC, and (2) dissolving Emerald Coast Investments, L.L.C. (Emerald Coast) and distributing its assets among its various members.

The transaction was expected to be consummated on or after December 30, 2002, the effective date of the exemption (7 days after the notice was filed).

¹ RMC is a noncarrier holding company which is controlled by Durden. RMC's former corporate name was Rail Management and Consulting Corporation.

² Rail Partners is a noncarrier limited partnership. Durden, through RMC and four other entities that he controls, also controls Rail Partners. Additionally, Durden controls two trusts that, with RMC, control Emerald Coast. Durden separately controls noncarrier GRI. GRI, Emerald, and RMC in turn control Rail Partners.

At the time this notice was filed, applicants controlled 14 Class III rail carriers located in Alabama, Arizona, Arkansas, Florida, Georgia, Kentucky, North Carolina, Tennessee, Texas, and Wisconsin. They are: AN Railway, L.L.C.; Atlantic & Western Railway, L.P.; The Bay Line Railroad, L.L.C. (Bay Line); Copper Basin Railway (Copper Basin); East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P.; KWT Railway, Inc. (KWT); Little Rock & Western Railway, L.P.; M&B Railroad, L.L.C.; Tomahawk Railway, L.P.; Valdosta Railway, L.P., Western Kentucky Railway, L.L.C. (Western Kentucky); and Wilmington Terminal Railroad, L.P. These rail carriers are referred to as the RMC Rail Group. Applicants state that, in most cases, RMC is the general or managing partner of the railroad, holding a 1% interest, while Rail Partners is a limited partner holding the remaining 99% interest.³

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside applicants' corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c),

³ Four exceptions apply: KWT, in which GRI controls 100% of the voting stock; Bay Line and Western Kentucky, in which Rail Partners holds 97% of the voting stock and 3% is held by RMC, Durden, and Durden-controlled entities; and Copper Basin, in which Rail Partners holds 55% of the voting stock and Asarco, Inc., an unaffiliated entity, holds the minority 45% interest.

however, does not provide for labor protection for transactions under sections 11324-25 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34306, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Donald G. Avery, 1224 17th Street, N.W., Washington, DC 20036.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: January 15, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary